United Nations S/2005/142

Security Council

Distr.: General
7 March 2005

Original: English

Report of the Secretary-General on Ethiopia and Eritrea

I. Introduction

1. The present report is submitted pursuant to paragraph 12 of Security Council resolution 1320 (2000) of 15 September 2000, and provides an update on the peace process since my report dated 16 December 2004 (S/2004/973 and Corr.1). The report also describes the activities of the United Nations Mission in Ethiopia and Eritrea (UNMEE), the current mandate of which expires on 15 March 2005.

II. Status of the Temporary Security Zone and adjacent areas, and cooperation with the parties

2. The situation in the Temporary Security Zone and in the adjacent areas remains generally calm and stable. Following the announcement of the five-point proposal by Meles Zenawi, the Prime Minister of Ethiopia, on 25 November 2004 (see S/2004/973/Add.1), there has been a steady increase of troops of the Ethiopian armed forces south of the Temporary Security Zone. This development, which began on 16 December 2004, after advance notice by the Ethiopian Government, appears to be continuing. Ethiopia describes the build-up of troops as part of the reorganization of its armed forces intended to improve its defence capability. So far, UNMEE has confirmed that Ethiopia has redeployed six to seven additional divisions at points ranging from 25 to 45 kilometres from the southern boundary of the Zone. This move has been characterized by Ethiopia as purely defensive. Eritrea considers the deployment provocative. At the same time and to the extent that UNMEE is able to monitor the situation, there has been no significant movement or redeployment of troops of the Eritrean Defence Forces, except for some adjustments in areas adjacent to the Zone to cover the main roads linking Eritrea with Ethiopia.

3. I am concerned about a possible rise in tensions along the border in view of the build-up described above, as well as the training of Ethiopian troops in the adjacent areas south of the Temporary Security Zone and Ethiopian troop movements in Sector West. I appeal to the Government of Ethiopia to redeploy its troops away from the vicinity of the southern boundary of the Zone, in order to reinstate the situation that pertained before 16 December 2004.

4. During the reporting period, both parties generally cooperated with UNMEE. However, as indicated in my previous report to the Security Council, the threat to military stability due to the lack of progress on the political front remains. This

05-25643 (E) 090305

threat has increased with the recent military "reorganization" as well as the hostile rhetoric from both capitals. It should also be noted that the success of monitoring and verification of the military situation on the Eritrean side is somewhat qualified because of the serious measures described in paragraph 5 below. The present political stalemate notwithstanding, I am pleased to note that UNMEE has been able to maintain the integrity of the Temporary Security Zone.

Freedom of movement

5. Since my last report to the Security Council, there have been some positive developments with regard to cooperation between UNMEE and Eritrea in this area. Restrictions of freedom of movement have to some extent been progressively reduced in the areas adjacent to the Temporary Security Zone. Recently, the Force Commander and the local UNMEE commanders were invited to visit the positions of the Eritrean Defence Forces. They were briefed by the local Eritrea Defence Force Commanders and promised full cooperation. However, the vital Asmara-Keren-Barentu road has remained closed to UNMEE traffic since 5 March 2004, except for the brief periods from 9 to 31 August 2004 and 12 to 26 January 2005, when it was reopened to facilitate rotations of the Jordanian battalion. This measure remains a major impediment to UNMEE operations, since the closed road is the best supply route for United Nations troops in Sector West.

6. On the Ethiopian side, especially in Sub-Sector East, UNMEE personnel encountered restrictions to its freedom of movement in certain locations within the adjacent area. Since every such impediment places an unnecessary constraint on UNMEE's operational efficiency, I appeal to both countries for their cooperation.

7. With regard to the issue of a direct flight route between Addis Ababa and Asmara, I regret to inform the Security Council that the position of the Government of Eritrea has not changed since my last report. Mission aircraft continue, as in the past, to fly via Djibouti, thereby incurring considerable additional costs and waste of work hours, as well as running increased safety and security risks. I reiterate my appeal to the Government of Eritrea to finalize the necessary flight arrangements with UNMEE without delay, with a view to allowing direct flights between the two capitals.

Military Coordination Commission

8. The twenty-eighth meeting of the Military Coordination Commission was held in Nairobi on 17 January 2005 under the chairmanship of the UNMEE Force Commander. During the meeting, the delegates discussed the current military situation and reviewed the functioning of the sector-level military coordination commissions. The deliberations were held in a cordial atmosphere, with both sides expressing a willingness to cooperate with UNMEE in its search for solutions to outstanding issues. The two delegations also discussed the reorganization and redeployment of the Ethiopian armed forces units, as well as their potential impact on the peace process. In that connection, the Ethiopian Commissioner stated that the redeployment of the Ethiopian army was a "purely defensive measure", in contrast to Eritrea's characterization of the same development as "provocative".

Status of the Mission and related issues

9. As at 18 February 2005, the total strength of the UNMEE military component stood at 3,344, comprising 3,049 troops, 87 headquarters staff officers and 208 military observers (see annex II).

10. In accordance with Security Council resolution 1560 (2004) of 14 September 2004, the adjustment of the Mission and streamlining of its operations commenced in December 2004 and was completed at the end of January 2005. As planned, the force has been reduced from three to two battalions. The former Sector East has now been reorganized into a subsector under the operational command of Sector Centre. Some 250 troops from the Indian battalion, with a standby reserve of 30 to 40 troops, are now deployed in the new Sub-Sector East.

11. The core operations under the revised concept, in accordance with Security Council resolution 1320 (2000), remain observation, reporting, analysis, identification of potential flash points and preventive action. The concept also includes selective aerial reconnaissance of particular areas.

12. As mentioned in my last report, the ground fuel problem faced by the Mission has abated somewhat. Bulk fuel supplies have been resumed. Mission fuel reserves are now at acceptable levels as dictated by reasonable prudence. Consequently, travel restrictions, introduced as a precautionary measure, have been lifted. For the foreseeable future, the Mission does not envisage the need to import fuel directly, as initially planned.

III. Boundary Commission

13. The Boundary Commission has been unable to resume the demarcation process, despite continued efforts to do so. As described in the sixteenth report on the work of the Commission (see annex I), Eritrea insists on adherence to the April 2002 delimitation decision. The Commission also states that Eritrea is not prepared to accept the proposal made by Ethiopia some time ago for the completion of demarcation in the Eastern Sector unless there is at the same time a clear assurance from Ethiopia that the rest of the boundary will also be demarcated.

14. According to the Boundary Commission, Ethiopia is not prepared to allow demarcation to continue in the manner laid down in the demarcation directions and in accordance with the timeline set by the Commission. It now insists on prior dialogue, but has rejected the opportunity for such dialogue within the framework of the demarcation process. In the assessment of the Commission, this is the latest in a series of obstructive actions taken since the summer of 2002, which belies the frequently professed acceptance by Ethiopia of the delimitation decision.

15. In view of this situation, the Commission has indicated that it is taking immediate steps to close down its field offices for the time being. These can be reactivated (though subject to some months of lead time) when circumstances permit the resumption of demarcation work. As for the Commission, it remains ready to proceed with and complete the process of demarcation.

16. The Commission concludes its report by stating that the line of the boundary was legally and finally determined by its delimitation decision of 13 April 2002. Though undemarcated, the Commission reports this line is binding upon both

parties, subject only, unless the parties agree otherwise, to the minor qualifications expressed in the delimitation decision.

IV. Mine action

17. Landmines and unexploded ordnance continue to constitute a major threat in the Temporary Security Zone and adjacent areas, hindering the resettlement of the population of both countries. During the period from December 2004 through February 2005, there were five reports of incidents concerning mines and/or unexploded ordnance in the Temporary Security Zone, three in Sector Centre and two in Sector West, in which three people were killed and 11 injured.

18. Besides closely monitoring the threat of landmines and unexploded ordnance in all Sectors, the UNMEE Mine Action Coordination Centre also continued to provide the necessary mine action support to the Mission in the Temporary Security Zone, ensuring that a consistent and well-coordinated UNMEE mine action response was maintained. During the period under review, the Force's small demining assets, together with the commercial contractors for route clearance and integrated demining operations, destroyed 81 mines and 79 items of unexploded ordnance, and cleared 148,291 square metres of land and 222 kilometres of road.

19. The Mine Risk Education field teams, established by the Mine Action Coordination Centre, continued to focus their outreach activities on populations in both Sectors, especially those living in areas suspected to be dangerous. During the reporting period, the teams provided mine-risk education, assistance and advice to almost 4,000 people.

V. Humanitarian developments

20. In Eritrea, the overall humanitarian situation continues to deteriorate. Successive years of drought, inadequate rains and existing economic policies have seriously undermined crop and livestock production. The food situation is expected to be exacerbated further in 2005 because of the poor crop harvest in September/October 2004. It is also expected that an estimated 2.3 million people, about two thirds of the population of the country, will require food assistance at varying levels throughout 2005. The World Food Programme (WFP) has reduced beneficiary rations significantly in an attempt to stretch the food supplies into the second quarter of the year: only internally displaced persons in camps will continue to receive a food ration fully covering their daily caloric requirement, while the rations of all other categories of beneficiaries will be reduced.

21. In addition, Eritrea needs to combat infant and maternal malnutrition. The deficit of 24,000 metric tons in supplementary feeding has made it difficult for humanitarian agencies to reverse the prevailing high malnutrition rates. Despite the enormous strides made in lowering infant mortality, acute respiratory infections and diarrhoea still pose a major threat to child survival in the country. While HIV prevalence appears to be stabilizing at 2.4 per cent, infection levels vary considerably, highlighting the need to intensify and refine the focus of prevention efforts. Meanwhile, water shortages and the deterioration of water quality are being reported in most parts of the country. Sanitation coverage in rural Eritrea is also

very low, with only 3.6 per cent of the population having access to improved sanitation facilities. This poses additional health risks to children.

22. Some 19,000 internally displaced persons who recently returned to their places of origin inside the Temporary Security Zone in Sector West will require basic social services and facilities for sustainable reintegration. In 2004, the United Nations Consolidated Appeal for Eritrea was less than 60 per cent funded, and the 2005 Consolidated Appeal remains largely unfunded. I appeal to the donor community to make timely and adequate contributions to address the humanitarian needs in the country.

23. In Ethiopia, the 2005 Joint Humanitarian Appeal was launched on 23 December 2004, just as the Government embarked on its Productive Safety Nets Programme. The programme aims to provide cash or food assistance, in exchange for public works, to some five million people who are subject to chronic food shortages. The humanitarian appeal will focus on the acute food needs of 2.2 million affected people and will support another 930,000 proposed beneficiaries in the Afar and Somali regions in 2005, until those areas can adequately prepare for implementation of the new government programme. In accordance with this Consolidated Appeal, 159 million United States dollars is required for food assistance and another $112 million will be needed for health, nutrition, water and sanitation, agriculture, capacity-building and coordination.

24. As of mid-February, only 30 per cent of food requirements were met in Ethiopia for the year and minimal pledges had been made for non-food requirements. No emergency food aid was dispatched by the Disaster Prevention and Preparedness Commission to any region in January and there are very limited stocks of food for emergency food aid distribution. Despite a reported bumper harvest in 2004, large areas of the country remain severely affected by drought and food insecurity.

25. The enhanced outreach strategy, which targets 6.9 million children aged five and under for nutritional screening, immunizations and supplementary feeding, is reporting large numbers of acutely malnourished children in the 325 locales where the programme is under way.

26. The peace agreement in the Sudan offers the prospect for the accelerated return home of Sudanese refugees who are currently in western Ethiopia. There are also prospects that the remaining refugees in the Somali National Regional State may return to their homes in Somalia this year.

Quick-impact projects

27. UNMEE continued to implement numerous quick-impact projects in the Temporary Security Zone and its adjacent areas, in both Ethiopia and Eritrea, from funds received through the Trust Fund to Support the Peace Process in Ethiopia and Eritrea. The Government of the Netherlands recently made another contribution of $68,000 to the Fund, thus bringing the total amount of its overall donation to $270,000. Since 2001, UNMEE has disbursed $1.3 million worth of small-scale projects for water, sanitation, health and education. While deliberately modest in size and scope, this work promotes tangible benefits to local communities and contributes to positive relations between UNMEE and the people of both countries at the grass-roots level. I urge donors to support these very important projects in the

Temporary Security Zone and in the surrounding areas by making additional contributions to the Trust Fund.

HIV/AIDS activities

28. The small HIV/AIDS Unit, together with all military contingents of the Mission, commemorated the World Aids Day on 3 December 2004. On that occasion, UNMEE conducted special HIV/AIDS awareness activities through drama performances and open forums involving both the local communities and UNMEE contingents. UNMEE also conducted induction as well as routine training for all new arrivals in the mission area, and distributed HIV/AIDS awareness cards to personnel at the Mission Headquarters and in the field.

VI. Human rights

29. During the reporting period, UNMEE carried out regular visits and monitored the situation of Eritrean refugees in the Shimelba camp, near Shiraro in Ethiopia. The camp, where more than 8,000 Eritreans have sought asylum, has a monthly influx of approximately 230 new arrivals. Although security conditions in the camps have improved, refugees continue to face critical humanitarian needs, including the lack of drinking water, proper health and sanitation facilities and food supplies. The living conditions of the most vulnerable groups, mainly women and children, are also of great concern. I therefore appeal to the donor community to generously assist humanitarian agencies in order to alleviate the critical situation facing the residents of Shimelba refugee camp as well as the Afar internally displaced persons living in extremely harsh and remote areas in Sub-Sector East.

30. UNMEE has also continued to monitor the human rights situation within the Temporary Security Zone and to investigate related issues, including cross-border incidents and the abduction of minors. In two such cases, involving 11 Ethiopian minors, from Mai Cha and Kafna in the Central Sector, the children were successfully returned to their families in Ethiopia after a few days of detention in Eritrea. I am pleased to note that the Eritrean authorities, on this occasion, acknowledged that such incidents should not reoccur. The Mission has also encouraged Ethiopia to develop standard procedures for processing cases of unaccompanied Eritrean minors who voluntarily cross into the country. The country also lacks adequate facilities for the temporary accommodation of these minors.

31. In my last report, I encouraged the implementation of technical cooperation projects to assist both countries in their capacity-building efforts in human rights. In that respect, UNMEE undertook preliminary needs assessments in Ethiopia in February. I am pleased to note that the initiative was well received. UNMEE will endeavour to replicate similar meetings with relevant segments of the civil society and international organizations in Eritrea. I encourage both parties to continue extending their full support and cooperation to the Mission.

32. UNMEE also continued to conduct human rights promotional and training activities for the benefit of different target groups in the two countries. I am encouraged by the fact that during the celebration of Human Rights Day UNMEE successfully undertook various activities in both countries to promote awareness of human rights issues among disabled people.

VII. Public information

33. UNMEE public information activities have continued through its radio programmes, weekly press briefings, video productions and monthly newsletter. The misunderstanding with the Ministry of Information of Eritrea regarding its apparent demand to check the UNMEE newsletter prior to publication seems to have been clarified, and Radio Eritrea continues to broadcast the weekly one-hour programme prepared by UNMEE. Nevertheless, getting the UNMEE message out on a regular basis through the local media has become increasingly difficult. On the Ethiopian side, there have been encouraging discussions with the Minister of Information and the head of Ethiopian Radio to place the UNMEE radio programme on their regular programme schedule, in place of the present practice of using shortwave broadcasts.

34. The work of the Outreach Centres established by UNMEE on the Ethiopian side continues apace, in particular since the opening of the Adigrat Outreach Centre in October 2004. UNMEE also launched and widely distributed its 2005 calendar focused on the implementation of quick-impact projects. These and other events conducted by the Mission attracted great interest from the general public and underscored the need for United Nations messages to reach the population at the grass-roots level.

VIII. Sexual exploitation and abuse

35. UNMEE appointed both a focal point and an alternate to receive complaints on sexual exploitation and abuse. Additionally, training on sexual exploitation and abuse has been incorporated, on a systematic basis, in all induction and other ongoing training programmes for both civilian and military personnel in the mission.

IX. Financial aspects

36. The General Assembly, by its resolution 58/302, appropriated $198.3 million, equivalent to $16.5 million per month, for the maintenance of UNMEE for the financial period from 1 July 2004 to 30 June 2005. Should the Security Council decide to extend the mandate of UNMEE beyond 15 March 2005, the cost of maintaining the Mission would be limited to the amount approved by the Assembly. As at 31 January 2005, unpaid assessed contributions to the special account for UNMEE amounted to $64.4 million. The total outstanding assessed contributions for all peacekeeping operations as at that date amounted to $2.2 billion.

X. Observations

37. Despite the difficulties experienced in the peace process and, in particular, in the implementation of the decision of the Eritrea-Ethiopia Boundary Commission of April 2002, I commend the parties for their continued commitment to the provisions of the agreement on cessation of hostilities of June 2000. This has contributed to UNMEE's sustained ability to maintain the integrity of the Temporary Security Zone.

38. Members of the Security Council will recall that in my last report I urged the two parties not to undertake any activities that could undermine the integrity of the Temporary Security Zone or otherwise jeopardize the fragile and relative stability that has prevailed thus far. It is therefore troubling that Ethiopia's announcement of its five-point proposal was followed by a substantial redeployment of their forces near the southern boundary of the Zone. As I have stated on several occasions in the past, a stalemate in the peace process is a source of instability; this is exacerbated when troops are amassed in the border region. I therefore reiterate my strong appeal to both parties to refrain from any action that could destabilize the situation.

39. Equally, I note with concern statements to the effect that it is not possible to implement the Boundary Commission's decision as is. I wish to reiterate the importance for the parties to accept the demarcation of the boundary in accordance with the Commission's instructions.

40. In the December 2000 Algiers Agreement, the parties committed to submit their boundary dispute to binding arbitration. Three years have passed since the Commission issued its decision. In this regard, the reports of the Commission, including the one attached to the present document (see annex I), are self-evident. According to the Commission, new construction has been undertaken in areas that were awarded to Eritrea, which could be interpreted as an effort to create facts on the ground.

41. As I indicated in my previous report to the Security Council, I welcome any step that contributes to the full implementation of the 2000 Algiers Agreement and the subsequent decision of the Boundary Commission, the initiation of dialogue between Eritrea and Ethiopia and their willingness to normalize bilateral relations.

42. In February 2002, shortly before the Boundary Commission issued its delimitation decision, the Security Council visited the two countries in order to assure them that it would continue to support the peace process, including demarcation. The Council may find it opportune to reaffirm and demonstrate its commitment by returning to Eritrea and Ethiopia. In order to ensure that the impact of this visit is not mitigated by other political developments in the region over the next few months, such a mission by the Council, no later than this summer, may be timely. As was the case in its previous visit, discussions with the leadership in the two capitals could be accompanied by stops in the border area.

43. In this same vein, I would urge the witnesses to the Algiers Agreements to play a more concerted role, with a view to assisting in breaking the protracted and dangerous stalemate.

44. Equally, despite the Council's call on Eritrea to cooperate with my Special Envoy, Lloyd Axworthy, and despite my clarifications with regard to his mandate, Eritrea has made it clear that it will not engage in any further diplomatic exchanges with him. I appeal to Eritrea to engage my Special Envoy and to extend to him the necessary cooperation in order to enable him to facilitate the implementation of the Algiers Agreement and the decision of the Boundary Commission.

45. As UNMEE continues to discharge its mandate, its role as a stabilizing factor is acquiring additional importance. In the circumstances, the Mission will do everything possible to observe, analyse, report on the situation on the ground and promote confidence and political solutions. Therefore, I recommend that the

mandate of UNMEE be extended for an additional period of six months, until 15 September.

46. In the meantime, people affected by the border dispute continue to suffer. The sooner demarcation is completed, the better for everyone. I reiterate my appeal to the donor community to continue to make available the necessary resources to address humanitarian needs of the affected populations.

47. In conclusion, I would like to express my gratitude to my Special Representative, Legwaila Joseph Legwaila, and to the UNMEE civilian and military personnel for their continued commitment and hard work. I would like to pay special tribute to the Kenyan battalion, which concluded its tour of duty in Sector East at the end of January 2005, and to the Government of Kenya for its unstinting support to UNMEE. I would like to thank my Special Envoy, Lloyd Axworthy, who remains at the disposal of the parties for the conclusion of a lasting peace.

Annex I

Eritrea-Ethiopia Boundary Commission

Sixteenth report on the work of the Commission

1. This is the 16th Report of the Eritrea-Ethiopia Boundary Commission, covering the period from 15 December 2004 to 28 February 2005.

2. The Commission regrets that it has to begin this Report by informing the Secretary-General that, despite the efforts that the Commission has made in recent months to secure the resumption of the demarcation process, it has been unable to do so.

3. On 4 February 2005 the Commission invited the Parties to meet with it in London on 22 February 2005. Eritrea accepted the invitation. Ethiopia declined it, saying the meeting would be

> "premature . . . would be unproductive and could have an adverse impact on the demarcation process. The first priority for success in the demarcation process is to bring about good faith dialogue between the Parties. The Eritrean letter indicates no willingness on Eritrea's part in this regard."

Ethiopia made it clear that what it described as "the anomalies and impracticalities" in the Delimitation Decision must be addressed by the Parties through dialogue. "Only in this manner will the necessary conditions exist for the Commission to complete its duties."

4. The Commission finds itself confronted by the following situation.

5. Eritrea insists on adherence to the April 2002 Delimitation Decision. It is willing to meet with the Commission and Ethiopia to discuss the unconditional renewal of the demarcation process. It is not prepared to accept the proposal made by Ethiopia some time ago for the completion of demarcation in the Eastern Sector unless there is at the same time a clear assurance from Ethiopia that the rest of the boundary will also be demarcated.

6. Ethiopia is not prepared to allow demarcation to continue in the manner laid down in the Demarcation Directions and in accordance with the timeline set by the Commission. It now insists on prior "dialogue" but has rejected the opportunity for such "dialogue" within the framework of the demarcation process provided by the Commission's proposal to meet with the Parties on 22 February. This is the latest in a series of obstructive actions taken since the summer of 2002 and belies the frequently professed acceptance by Ethiopia of the Delimitation Decision.

7. In view of the refusal of Ethiopia to attend the 22 February meeting, the Commission had no alternative but to cancel it. However, given the gravity of the situation, the Commission decided that it would itself meet on that date.

8. Subject to what is said in paragraph 32 below, the Commission does not see any immediate or short term prospect of the renewal of the demarcation process.

9. Hitherto the Commission has been reluctant to express any legal assessment of the circumstances which have led to the present impasse, but it now feels that it is necessary to recall the principal developments that have led to the present situation and to identify the conduct that has prevented the Commission from completing its mandate.

10. By the Algiers Agreement of December 2000, the Commission was required both to delimit the boundary (that is to say, to determine and to describe precisely the legal boundary between the two Parties) and to demarcate the boundary (that is to say, to arrange for the boundary so determined to be visibly marked on the ground by the placing, where necessary, of boundary markers).

11. The mandate of the Commission as laid down in Article 4, paragraphs 1 and 2 of the Algiers Agreement was "to delimit and demarcate the colonial treaty border based on pertinent colonial treaties (1900, 1902 and 1908) and applicable international law. The Commission shall not have the power to make decisions *ex aequo et bono*." In the proceedings leading to the Delimitation Decision, neither Party contended that the Commission should depart from the boundaries that it would objectively determine were laid down in the stated treaties.

12. The boundary line laid down in the Delimitation Decision was subject to two specific and limited qualifications. They were set out as follows:

In the vicinity of Tserona the boundary was stated to run round that town

"at a distance of approximately one kilometre from its current outer edge, in a manner to be determined more precisely during the demarcation."

In the vicinity of Zalambessa the boundary was to pass round that town

"at a distance of approximately one kilometre from its current outer edge. . . The current outer edge of Zalambessa will be determined more precisely during the demarcation."

13. Small scale maps illustrating the boundary described in the Delimitation Decision were also included in it. The Decision foresaw that:

"A definitive map of the whole boundary on a scale of 1:25,000 will be produced on a sector-by-sector basis as each sector is finally demarcated and the exact coordinates of the locations of the boundary markers have been determined."

The coordinates of all reference points mentioned in the Decision were specified in a table. The Commission explained that:

"Except as otherwise indicated, all coordinates have been computed to the nearest one tenth of a minute, which corresponds to approximately 0.18 kilometre on the ground. The principal reason for using this specification is because of the limited availability at the present stage of information on the maps available to the Commission. All coordinates will be recalculated and made more precise during the demarcation as the Commission acquires the additional necessary information."

As the Commission further explained in its Observations of 21 March 2003 (S/2003/257/Add.1), para. 11:

". . . the recalculation of the coordinates was to be solely for the purpose of ensuring, on the basis of aerial photography, which the Commission had previously been precluded from initiating, that the coordinates of the locations listed in the Decision were accurate. Nothing in the language used could reasonably be read as suggesting that the Commission intended that the locations themselves would be varied during the demarcation. It was to be a technical exercise not involving any substantive alteration in the boundary. Nothing was said in the Decision to suggest that the line was provisional other than in relation to the locations specifically identified in paragraph 10 above."

14. When the Delimitation Decision was rendered, both Parties accepted it and its delimitation of the boundary, as indeed they were bound by the Algiers Agreement to do. The acceptance by each Party was unqualified and publicly announced.

15. That boundary, as delimited by the Commission, and subject only to the two qualifications mentioned in para. 12 above, constituted the final and legally binding line of the boundary. What remained to be done was the physical demarcation of the line on the ground by the placing of visible markers at appropriate locations. The Commission accordingly moved on to the demarcation phase of its activity, having already appointed a Chief Surveyor and a Special Consultant and opened Field Offices. The Parties were consulted and their views were taken into account in the formulation of the Demarcation Directions which were promulgated on 8 July 2002. At that stage, neither Party suggested that the Commission had, or should have, a power to vary the boundary in the course of demarcation or that there was any need for more than limited technical discussion between them before the demarcation could begin and be carried to a conclusion. Direction 14A of the Demarcation Directions specifically stated:

"The Commission has no authority to vary the boundary line. If it runs through and divides a town or village, the line may be varied only on the basis of an express request agreed between and made by both Parties."

16. During the summer and autumn of 2002, preparations for the demarcation continued. A base map on which pillar locations could ultimately be indicated was also prepared. In December

2002 the map was sent to the Parties for their comments. Eritrea filed 17 pages of technical comments. Ethiopia filed 141 pages of comments. The latter went beyond the scope of technical comment and contained, as reported by the Commission in its Eighth Report (1 December 2002-21 February 2003) to the Secretary-General:

"... a detailed exposition of the views of Ethiopia regarding the steps that it deemed necessary for the satisfactory completion of the demarcation. In a number of significant respects the comments amounted to an attempt to reopen the substance of the April Decision, notwithstanding Ethiopia's repeated statements, made both before and since, of its acceptance of the Decision.

4. The main thrust of the Ethiopian comments is that the boundary should be varied so as to take better account of human and physical geography. They are similar to those advanced by Ethiopia in discussions with the Commission in the period since the April Decision".

17. On 17 July 2002, in response to a complaint by Eritrea that Ethiopian nationals were being settled in Dembe Mengul on the Eritrean side of the border as determined by the Commission, the Commission made an Order requiring Ethiopia to withdraw those nationals from that village. On 14 August 2002 the Security Council, in Resolution 1430, called on the parties to refrain from unilateral troop or population movements, including establishment of any new settlements in areas near the border, until demarcation and orderly transfer of territorial control has been accomplished in accordance with Article 4.16 of the Comprehensive Peace Agreement. Ethiopia did not comply with the Commission's Order. On 7 November 2002 the Commission formally determined that Ethiopia had not complied with its obligation and so reported to the Security Council. Ethiopia has still not complied.

18. The Commission in its Eighth Report recalled that the Algiers Agreement placed upon the United Nations the responsibility for dealing with the consequences of any aspect of the demarcation that involves the transfer of territory or the division of communities, but again said that it was willing to assist in the process of boundary variation if the Parties and the United Nations so wished.

19. On 21 March 2003 the Commission took the unusual step of communicating to the Parties certain Observations intended, *inter alia*, to clarify the position with respect to variation from the boundary laid down in the Decision. The text of the Observations was added to the Eighth Report. The Commission said in those Observations that:

"8. ... the scope for any clarification of or deviation from the boundary which the Boundary Commission has laid down is very limited. In the Commission's view a demarcator must demarcate the boundary as it has been laid down in the delimitation instrument, but with a limited margin of appreciation enabling it to take account of any flexibility in the terms of the delimitation itself or of the scale and accuracy of maps used in the delimitation process, and to avoid establishing a boundary which is manifestly impracticable."

It is apparent that this very carefully restricted formulation offers no support for any suggestion that the Commission itself acknowledged the need for wide ranging dialogue in order to finalise agreement on the line to be taken by the boundary.

20. The Commission also observed as regards Badme village, which the Commission had found to lie on the Eritrean side of the boundary but to which Ethiopia continued to press its claim, that:

"Overall, the evidence was nothing like what might have been expected had Ethiopia's presence there in the period before the case been as significant as Ethiopia now alleges. The Commission would note that what is relevant here is governmental and not private activity. The references to Ethiopian governmental control of Badme and its environs were insufficient to persuade the Commission that an Ethiopian presence west of the line from Points 6 to 9 would support a departure from the line that had crystallized by 1935. This conclusion followed from the inadequacy of Ethiopia's evidence."

21. At the same time, the Commission said that:

". . . in the light of further work done in the exercise of its demarcation function, the Commission has identified two areas in the Central Sector where a strict application of the line as delimited in its Delimitation Decision would be manifestly impracticable, namely, certain plateau lands in the vicinity of Point 18 on the boundary, and the area of the delta-like formation where the Ragali River flows into the Salt Lake. Demarcation instructions relating to these areas will be issued later."

The Commission also referred to technical demarcation issues between Points 17 and 18, which it said would be addressed in future instructions to the demarcation team. The Commission also referred to some uncertainty regarding the boundary line around Zalambessa and the commencement of the line passing down the Muna until it meets the Enda Dashim at Point 21 and said that it would be giving the demarcation team appropriate instructions in due course.

22. The Commission concluded:

"28. It is inherent in any boundary delimitation that it may give rise to anomalies on the ground. This was expressly anticipated and accepted by the Parties in their December 2000 Agreement, and by the Commission in its Demarcation Directions of July 2002. This is essentially a matter for the Parties to deal with by agreement between themselves, or by agreeing to empower the Commission to vary the boundary, or by turning to the United Nations as contemplated in Article 4.16 of the December 2000 Agreement.

29. In its consideration of the comments of the Parties, the Commission must maintain its impartial approach to all matters with which it has to deal. It cannot allow one Party to claim for itself the right to insist on adjustment of parts of the boundary which that Party finds disadvantageous. The Commission continues to owe a duty to both Parties to perform the

functions placed upon it by their agreement and it is its intention to perform these functions fully and faithfully."

23. The Commission continued with its demarcation activities in the Eastern Sector in the course of 2003 and dealt with a problem that had arisen regarding the appointment of Field Liaison Officers. On 16 July 2003 it issued a schedule of the order of activities ahead as then foreseen. This contemplated the conclusion of the demarcation of the whole border by July 2004. In its Tenth Report of 29 August 2003 the Commission pointed out that compliance with this timeline "essentially depends on the unreserved cooperation of the two Governments . . .".

24. On 22 August 2003 the Commission issued a second set of Demarcation Instructions for the Field Assessment of Pillar Sites which included instructions to investigate whether "the boundary as set out in the Delimitation Decision" is "manifestly impracticable" in the region from Zalambessa to Point 21 and in the plateau land to the east of Zalambessa; the Commission also determined that pillar sites should be fixed along straight lines following the perimeter of the plateau to the west of Zalambessa. The Commission's surveyors were never able to act on this Demarcation Instruction.

25. By a letter to the Secretary-General dated 19 September 2003, Ethiopia gave prominence to what it called "the totally illegal, unjust and irresponsible decision of the Commission in Badme and parts of the Central Sector", thus making it clear, in the Commission's understanding, that Ethiopia's complaint was with the Delimitation Decision rather than with the demarcation process. Ethiopia proposed that the Security Council set up an alternative mechanism to demarcate the contested parts of the boundary in what it called "a just and legal manner". The Commission responded to this letter, which it characterized as 'containing some statements which are misconceived and misleading', in the form of an appendix to its Eleventh Report to the Secretary-General. The Commission there replied in detail to each of Ethiopia's contentions, which related principally to Badme.

26. On 19 November 2003 the Commission met with the Parties in the hope that each might adopt a more flexible position: Eritrea not to adhere to its insistence that the demarcation in the Eastern Sector be completed only if Ethiopia agreed to allow work to continue in the Central and Western Sectors; Ethiopia to permit the demarcation activity to proceed in the Central and Western Sectors and to withdraw its condition that work could continue in those sectors only if Ethiopia approved the Commission's method of demarcation. Ethiopia sought to justify its position by claiming that the demarcation process was flawed as not being consistent with the language and spirit of the Algiers Agreement, insisting that the general framework of that Agreement prevailed over the specific provisions of Article 4 thereof and that Ethiopia was entitled to take its position in relation to the demarcation process without departing from its acceptance of the binding force of the Delimitation Decision. In its Eleventh Report to the Secretary General, the Commission felt obliged

"to conclude that despite the words used by Ethiopia [in emphasizing that it was concerned only with the demarcation process] it is presenting its dissatisfaction with the boundary as

substantively laid down in the delimitation decision in the form of procedural impediments to the demarcation process which it is not entitled to interpose."

27. From then on, as stated in the Commission's Twelfth, Thirteenth, Fourteenth and Fifteenth Reports, the Commission has been unable to make progress with its demarcation activities. In the hope, however, that the situation might change, it has maintained its Field Offices, though with reduced staff.

28. On 7 December 2004 the Commission received from Ethiopia a letter referring to a "Five-Point Peace Proposal" (dated 25 November 2004) intended to resolve the dispute. This proposal asserted Ethiopia's acceptance "in principle" of the Delimitation Decision. Ethiopia agreed to pay its dues to the Commission, which it has since done, and to appoint Field Liaison Officers, a process which it has not completed. It then proposed to "start dialogue immediately with the view to implementing the Ethiopia-Eritrea Boundary Commission's decision in a manner consistent with the promotion of sustainable peace and brotherly ties between the two peoples".

29. In its comment on these proposals, Eritrea, on 10 December 2004, referred to Ethiopia's non-compliance with the Commission's order requiring the removal of illegal Ethiopian settlements from Eritrean territory and stating that it is incumbent upon Ethiopia immediately to express unconditional respect for the work of the Commission.

30. On 21 December 2004, the Security Council took note of the developments in paragraphs 28 and 29, stating that it was encouraged by the movement towards a solution of the boundary dispute and adding that the Members "look to the Commission to provide guidance to all parties involved as they work together on the implementation process". The European Union had already on 17 December 2004 expressed its hope that the Commission will now be in a position to commence the demarcation process in close cooperation with the two countries.

31. The Commission thereupon (on 26 January 2005) wrote to both Parties stating that "It is imperative that the Commission should now be enabled to continue and complete its mission. It therefore calls upon both of the Parties to assist it to that end without any pre-conditions." The letter then detailed the specific, practical steps that now needed to be taken. That letter and its annexes are attached hereto. As already explained in para. 7 above, that meeting, intended to be with the Parties, had to be cancelled.

32. In view of the situation, the Commission is taking immediate steps to close down its Field Offices. These can be reactivated (though subject to some months of lead time) if Ethiopia abandons its present insistence on preconditions for the implementation of the demarcation. As for the Commission, it remains ready to proceed with and complete the process of demarcation whenever circumstances permit.

33. The Commission must conclude by recalling that the line of the boundary was legally and finally determined by its Delimitation Decision of 13 April 2002. Though undemarcated, this line is binding upon both Parties, subject only to the minor qualifications expressed in the Delimitation Decision, unless they agree otherwise. Conduct inconsistent with this boundary line is unlawful.

(*Signed*) Sir Elihu **Lauterpacht**
President of the Eritrea-Ethiopia Boundary Commission
24 February 2005

Enclosure 1

Eritrea/Ethiopia Boundary Commission

26 January 2005

1. Because of the difficulties placed in the way of the Commission, with which your Excellency's Government is familiar, it has been obliged to suspend its demarcation activity and to reduce its presence in the area. There have recently been developments of which the Commission has taken note including, on the part of Ethiopia, the payment of arrears due to the Commission and the partial, but as yet incomplete, appointment of new Field Liaison Officers (FLOs). Eritrea's long-stated readiness to proceed with demarcation over the whole length of the boundary has been reiterated. But nothing else has happened to enable the Commission promptly to resume its task. The Commission remains profoundly concerned about the *impasse*. It recalls that the Parties by treaty agreed that the delimitation of the boundary would be followed by its complete demarcation. It is imperative that the Commission should now be enabled to continue and complete its mission. It therefore calls upon both of the Parties to assist it to that end without any preconditions.

2. In order that it should be clearly appreciated what remains to be done in the demarcation process, the Commission lists below the steps that must now be taken.

I. Preliminary steps

3. As the staffs of the Field Offices in Asmara, Adigrat and Addis Ababa have been reduced during the period of suspension of demarcation operations, it will now be necessary to restaff these three offices.

4. The Chief Surveyor, having left the area in September 2004, will need to be re-established there.

5. Contracts will need to be concluded with the firms of contractors previously chosen by the United Nations to carry out the pillar construction and survey work and which have said that they are still available and interested in carrying out the project.

6. Field camps will have to be established for the contractors at Adigrat and Shilalo.

7. The Field Offices will have to be resupplied with the necessary computing equipment, office supplies, furniture and vehicles that were returned to UNMEE.

II. Demarcation actions

8. Work would need to be resumed in accordance with the Demarcation Directions issued by the Commission on 8 July 2002, as amended in November 2002 and March and July 2003, and the Demarcation Instructions of 21 March 2003 and 22 August 2003.

9. Steps would therefore need to be taken as follows.

A. Pillar emplacement is still required in the Eastern sector.

B. Field Assessment of potential pillar sites must take place in the following locations in accordance with the Demarcation Instructions of 22 August 2003:

(The item numbers in parentheses reflect the numbering in these Instructions)

Towns of Tserona and Zalambessa (Item 1)
Salt Lake (Item 2)
Ragali Delta (Item 3)
Ragali Gorge (Item 4)
Points 26, 23, and 22 (Item 5)
Points 24 and 25 (Item 6)
Boundary from Zalambessa to Point 21 (Item 7)
Plateau Land East of Zalambessa (Item 8)
Plateau Lands Near Point 18 (Items 9 & 10)
Eritrean Claim Line (Items 11 to 14)
Point 17 (Item 15)
Points 15 & 16 (Item 16)
Point 14 (Item 17)
Points 6 & 9 (Item 18)

C. Once the pillar emplacement in the Eastern Sector and the Field Assessment in paragraph B above have been completed, pillar emplacement will be required in the Central Sector.

D. Field assessment of potential pillar sites in the Western Sector will be required and will need to be followed by pillar emplacement there.

III. Prerequisites

10. The Parties will appreciate that none of the steps listed in Sections I and II above can be taken unless there is clear agreement on the following matters:

(1) The areas in which work is to be done in accordance with the list in Section II above.

(2) Security arrangements — It should be noted that security was a significant issue in the stalled contract negotiations with the contractors and will continue to be a dominant consideration for all those staff working in the field. A guarantee by both Parties to provide the necessary security for field staff and contractors is, therefore, essential and is required by Section II Para. 8D of the Commission's Demarcation Direction of 8 July 2002 (November 2002, March and July 2003), and paragraph 5 of Security Council Resolution 1430 (2002). The security details which must be assured and implemented by the Parties are to be fully established in writing in the form of a security management plan prepared by each Party prior to fieldwork commencing or contracts being signed between the United Nations and the contractors. These plans shall cover national, regional, local and village level security for equipment and personnel and shall provide for full cooperation by officials at all levels, and by the local population, including affected landowners. Each Party will be responsible for ensuring that the local population and the landowners in all sectors of the boundary conform to these security plans. The Commission emphatically underlines the importance of establishing effective security arrangements acceptable to staff and contractors in the field.

11. The Commission attaches to the present letter copies of the following principal documents referred to in it.

- Demarcation Directions of 8 July 2002, as revised November 2002 and March and July 2003
- Demarcation Instructions of 21 March 2003 and 22 August 2003
- Schedule of Order of Activities Ahead, 16 July 2003
- Steps to be taken as at 30 September 2003

12. The Commission would appreciate an early response to this letter.

(*Signed*) Sir Elihu **Lauterpacht**
President

Enclosure 2

8 July 2002
(as revised November 2002, March and July 2003)

Eritrea/Ethiopia Boundary Commission

Demarcation of the Eritrea/Ethiopia Boundary directions ("The Demarcation Directions")

I. Introduction

1. Article 4 (13) of the December 2000 Agreement requires the Commission to arrange for expeditious demarcation of the border as delimited. Article 4 (14) provides that "the Parties agree to cooperate with the Commission, its experts and other staff in all respects during the process of delimitation and demarcation, including the facilitation of access to territory they control".

2. The Rules of Procedure of the Commission provide in Article 30:

> "1. In consultation with, and with the co-operation of, the Secretary-General of the United Nations, the Commission shall arrange for the expeditious demarcation of the border as delimited. Without prejudice to paragraph 2 hereof, the procedure relating thereto shall be adopted by the Commission at an appropriate moment after consultation with the Parties. If the circumstances so permit, the border may be demarcated in such stages as the Commission may from time to time determine.
>
> 2. The Commission may, at any time, take, or direct the taking of, such preparatory steps as it considers desirable to expedite completion of its task and the prompt demarcation of the border . . . The Parties shall, to such extent as the Commission may direct, co-operate fully with the Secretary or any other personnel involved in such preparatory steps."

3. The steps that need to be taken in connection with the demarcation have been reported to the Secretary-General of the United Nations for transmission to the Security Council on a number of occasions, namely, in the Second (27 April 2001), Third (22 November 2001) and Fourth (4 August 2002) Reports of the Commission. They have also been the subject of correspondence between the Commission and the Parties.

4. In its Fourth Report the Commission expressed the hope that the Security Council, in its next resolution relating to the operation of UNMEE, would be able to extend the scope of the Mission's mandate expressly to enable it to assist the Commission in the demarcation stage of its activity and, in that connection, to accelerate the process of mine clearance. In response, the Security Council, in resolution 1398, invited the Secretary-General to submit recommendations to the Council on UNMEE's role in the border demarcation process, including with regard to the provision of demining support. The Secretary-General, in S/2002/245, indicated his readiness to make such recommendations.

5. In the Opening Statement made by the President of the Commission on 13 April 2002, on the occasion of the delivery of the Decision on Delimitation, he said, inter alia:

> "The Commission expects that the Parties will co-operate fully with the Commission in moving expeditiously to the demarcation phase. During that phase the demarcation staff assisting the Commission will examine the border region at first hand. On the basis of the information which they will then gather, the Commission will make any further determinations that may prove necessary."

6. In the light of the foregoing, the Commission has adopted the Demarcation Directions set out below. In accordance with Article 30 of the Commission's Rules of Procedure, the Parties have been consulted in the course of the preparation of these Directions.

II. Demarcation Directions

1. Objective of the Demarcation

A The general purpose of the demarcation is to set on the ground pillars identifying the course of the line decided in the Commission's Delimitation Decision of 13 April 2002. B The demarcation will also determine more precisely the delimitation line at those points specified in paragraphs 8.1.B. (iv, (vi) and C of the Dispositif of the Delimitation Decision.

2. Organization of the Demarcation

B The Demarcation Process will be carried out by, or under the responsibility of, the Boundary Commission. The work will be done by the Secretary and his representatives who are members of the United Nations Cartographic Unit (see Article 4, para. 7 of the Peace Agreement), the Special Consultant of the Commission ("the Special Consultant"), the Chief Surveyor and any other persons appointed or employed for this purpose by or under the authority of the Commission. The Terms of Reference of the Special Consultant are annexed hereto.

3. Field Offices

The work in the region will be carried out through two or more Field Offices of equal status, at least one in the territory of each Party. At present there are field offices in Addis Ababa and Asmara. Work shall be divided between these offices in the most efficient and economical manner as the circumstances may require, as determined by the Commission. In addition, the opening of an additional field office at Adigrat is foreseen when the stage is reached of actual placement of the boundary markers.

4. Relations with UNMEE

As provided by Security Council Resolution 1344, UNMEE will provide assistance to the Commission in accordance with the terms of the MOU between the United Nations and Commission signed on 2 April 2002 (with the deletion, as agreed with the United Nations, of the last item in 'Part D' of the Annex thereto,

relating to identification cards, which is superseded by the last sentence of paragraph 7, below).

5. **Information regarding operations**

The Special Consultant, assisted by the Chief Surveyor and in consultation with the Secretary, shall, as requested by the President:

A Prepare for the Commission and the Parties a statement of operations that have already been performed and that remain to be performed, with an estimate of the dates at which the various steps will be taken. The schedule of operations still to be carried out will be updated at monthly intervals. Any comments that the Parties may wish to make shall be made within 48 hours of receipt of the statement of operations.

B File progress reports with the Commission, the Parties and UNMEE at monthly intervals.

C Maintain personal contact, at regular intervals of not more than six weeks, with the central and regional authorities in Eritrea and Ethiopia in order to keep the most senior authorities informed of developments.

6. **Liaison**

A Each Party shall nominate at a high level a Liaison Representative and a Deputy Liaison Representative, at least one of which shall be stationed at their respective capitals, who shall have authority to receive information and requests for assistance, etc. and shall be able to arrange for these to be speedily processed. Any communications that the Parties may wish to make to the Field Offices of the Commission or the Commission shall be made through their respective Agents or Liaison Representatives and shall be copied to the Agent and the Liaison Representative of the other Party. The names and contact details of the Liaison and Deputy Liaison Representatives shall be forwarded without delay to the Secretary, the Special Consultant and the Chief Surveyor.

B *(i)* Each Party shall also nominate not more than two Field Liaison Officers to accompany the Field Offices staff of the Commission as observers during their movements in connection with their field work, for example, the emplacement of boundary markers and the "as-built" survey. However, if a Party does not make such nominations, or its nominees are not available at an appointed time and place, the Field Offices staff shall be free to continue their operations.

(ii) Field Liaison Officers shall be persons who have not served in that role, otherwise than in an ad hoc capacity, prior to 7 July 2003, and who are not currently serving as military personnel. Notice of each Party's selections as Field Liaison Officers shall be forwarded for information to the other Party and to the Registrar of the Commission and shall be accompanied by the following information in respect of each Field Liaison Officer:

(a) an up-to-date curriculum vitae, including full name, professional qualifications, current position and occupational responsibilities;

(b) a record of any military service or responsibilities since 1989.

(iii) A person's nomination as a Field Liaison Officer becomes effective upon that person's selection by the nominating Party as a Field Liaison Officer and the required accompanying information being forwarded to the Commission and the other Party. Should any disagreement crise with regard to a person's nomination as a Field Liaison Officer, that disagreement shall be resolved by the Commission, whose decision shall be final.

*(iv) In the event of replacement of a Field Liaison Officer, the Party making the replacement shall follow the procedure set forth in subparagraph (ii) above.**

C Each Party shall be responsible for providing, at its own expense, for the travel of its Field Liaison Officers to the proposed point of work. Parties shall also be responsible for all other expenses of their Field Liaison Officers. The Field Office staff shall not be responsible for any transport or logistical support required by the Field Liaison Officers at the work sites.

D Field Liaison Officers shall not interfere with or hinder the work of Field Offices staff on the ground. In case of unresolved disagreement, the procedure set out in paragraph 15 shall be followed. Field Liaison Officers may not be involved in mine-clearance activity.

E The Field Liaison Officers of each Party shall enjoy freedom of movement within the territory under control of the other Party in order to travel to meet with representatives of the Boundary Commission at the proposed point of work. The right of each Party to have its own Field Liaison Officers present while work proceeds is conditioned upon its compliance with its obligation to facilitate the attendance of the other Party's Field Liaison Officer.

7. Registration of Field Office staff

The Commission, through its Secretary and his Field Officers, shall communicate to the Parties the names and official designations of all persons employed in the service of the Field Offices or carrying out activities on their behalf, including contractors. Identification cards will be issued in the name of the Boundary Commission to such persons and shall be carried at all times.

8. Freedom of movement

A The staff of the Field Offices of the Commission and other persons performing functions for the Commission require free and unrestricted movement, and shall be allowed such movement, within the territories of the Parties for purposes connected with the demarcation. Any transport used by the staff of the Field Offices or by the Field Liaison Officers shall fly a flag or bear readily visible insignia clearly marked with the letters "EEBC".

* Italicized text indicates revision of July 2003, set forth in the Commission's "Decision pursuant to Article 15B of the Commission's Demarcation Directions."

B Notice of intended movements by air in the border region shall be given to the Liaison Representatives of the Parties not less than 72 hours in advance. The Parties shall provide the necessary authority within the ensuing 48 hours.

C Visas shall be given to Field Offices staff and other persons performing functions for the Commission for multiple entry and extended stay.

D Each Party shall within the area under its control be solely and completely responsible for ensuring the safety of all Field Offices staff and all personnel employed or used by the contractors for the placement and verification of boundary markers ("demarcation personnel"). Without prejudice to the generality of this responsibility, each Party shall ensure that in any area in which the Field Offices staff and demarcation personnel are working the local government officers and population are informed in advance so that they do not place any obstacle in the way of the performance by such personnel of their tasks. The security personnel of each Party providing protection to Field Offices staff and other demarcation personnel shall at all times carry appropriate communication equipment to enable them to communicate instantly with their respective capitals and those senior administrative officers with authority to resolve immediately any difficulties that may arise.*

9. **The demarcation**

A The demarcation shall take place on the basis of the 1:25,000 scale map presently being prepared by the Secretary of the Commission. As soon as completed, copies of this map bearing some place names and other basic geographic features for ease of reference, but otherwise unmarked, shall be handed to the Agents and the Liaison Representative of each Party for comment. Such comments shall be made to the Secretary within 15 days of receipt of the maps by each Party.

B Having considered any such comments, the Special Consultant with the assistance of the Chief Surveyor and in consultation with the Secretary, shall then prepare the factual report referred to in paragraph 14 E, below.

C Once the decision of the Commission on the places referred to in paragraph 14, below, has been made, the Commission shall mark on this map the line prescribed in the Delimitation Decision and the proposed sites of the boundary pillars, taking into account where appropriate the need for intervisibility. The map so marked will be sent to the Parties through their Agents and Liaison Representatives for their comments, to be made within 15 days.

D Pillars shall be placed within 50 metres of the coordinates of the pillars marked on the 1:25,000 scale map. If any pillar cannot be so placed, the question of its location shall be referred back to the Commission.

E *Pillar emplacement shall begin in the Eastern Sector, without prejudice to the continuance of preparatory steps for pillar emplacement in the Western and Central Sectors. The precise order of the emplacement of individual pillars will be determined by the Commission in the light of conditions prevailing from time to time.***

* Bold text indicates revision of November 2002.

** Italicized text indicates revision of March 2003, pursuant to paragraph 4 of the Commission's Order of 9 February 2003.

10. Mine clearance

A The preparation of each pillar site and the construction of each pillar shall not begin until the site and access roads are certified to be clear of mines and unexploded ordinance ("UXO") by the UNMEE MACC.

B Mine-clearance activity shall be conducted as heretofore, under the control and command of UNMEE MACC, by UNMEE personnel, UNMEE-employed personnel and international commercial contractors.

C All such personnel shall have freedom of movement to and around mine-clearance sites as provided in paragraph 8 A, above.

D Verification and quality assessment of mine-clearance work is the responsibility solely of UNMEE MACC.

11. Construction of pillars

A Pillars will be constructed in the manner and to the specification proposed in the Chief Surveyor's memorandum on Demarcation dated 16 May 2002. These details may be modified by the Commission after consultation with the Parties.

B Construction shall be done by contractors hired by the United Nations on behalf of the Commission in accordance with the MOU. The contractors may use UNMEE assistance as required, in accordance with the MOU.

C Materials for the construction of boundary markers and witness marks shall be procured by the United Nations on behalf of the Commission in accordance with the MOU.

12. "As-built" survey of boundary markers

Immediately after construction, the final location of each boundary marker shall be accurately surveyed from the adjacent witness marks. The witness marks and boundary markers will be connected by survey to the Primary and Secondary datum stations previously established. This survey work will be undertaken by contractors employed under paragraph 11 B, above.

13. Sectoral map

A register shall be kept, recording the final location of each pillar. The completion of the demarcation in each sector shall be promulgated by the Commission by means of the issue to the Parties of the final map of the relevant sector and a copy of the relevant pages of the register.

14. Special directions for specific locations or problems

Division of towns and villages

A The Commission has no authority to vary the boundary line. If it runs through and divides a town or village, the line may be varied only on the basis of an express request agreed between and made by both Parties.

River boundaries

B Unless the Commission should decide otherwise after receiving a request from a Party that the boundary in a river requires demarcation, the Commission considers that the identification of a river as a boundary should normally suffice without actual demarcation therein, save as regards the identification of confluences, turning points that may give rise to doubts, and headwaters or sources.

C Where the boundary turns at a river confluence, the turning point of the boundary is at the point of the meeting of the main channel of each river or stream. Where topography permits, the turning point shall be identified by three pillars, one on each bank of the river that meets the other and the third on the bank of the latter opposite the confluence, with the distances of each pillar from the point of meeting being marked thereon.

D References to the headwaters or sources of rivers or streams mean the highest point at which the flow of water can be identified or, if the stream bed has become permanently dry, then the highest point at which the stream bed can be identified.

Tserona, Zalambessa and Bure

E The Commission cannot demarcate the precise boundary at each of these towns without fuller knowledge of their layout and of the character and location of the buildings within them. The Field Offices shall therefore prepare a factual report thereon, on which the comments of the Parties will be requested, whereupon the Commission shall provide appropriate instructions to the Field Offices.

15. Disagreements

A Any disagreement by a Party with the location of the emplacement of a pillar on the ground, and the reasons thereafter, shall be notified by its Liaison Representative in writing to the Special Consultant and the Chief Surveyor, with a copy to the other Party's Liaison Representative, within 24 hours of being informed of the intended specific location. Such information shall be conveyed to the Field Liaison Officers if they are present at the location or, if they are not present, to the Liaison Representatives of the Parties. The other Party shall respond within 48 hours, and the Special Consultant, in consultation with the Secretary and the Chief Surveyor, shall then decide the matter. Either Party may then request (giving its reasons) the Special Consultant to refer the matter to the Commission for final decision. The fact that a question relating to a particular pillar is under consideration shall not prevent the Field Offices staff from continuing work on other pillars.

B Any other matter of disagreement shall, after notice by the Liaison Representative or Liaison Officer of the Parties to the Special Consultant or Chief Surveyor, be discussed between them. If the disagreement cannot thus be resolved, it shall be referred to the Commission for decision. The Special Consultant or the Chief Surveyor shall prepare and transmit a report thereon to the Commission and the Parties. The Parties may communicate any comments on this report to the Commission within 15 days of receipt of the report.

Enclosure 3

Eritrea/Ethiopia Boundary Commission

Demarcation instructions

21 March 2003

The Commission issues the following first set of technical instructions regarding demarcation:

Straight line boundaries

1. Where there is a straight line boundary between turning points, any intermediate boundary pillars shall be placed on the boundary line, so that it falls across the tops of the boundary pillars.

Towns of Zalambessa and Tserona

2. The demarcation team will submit the Ethiopian proposal for the boundary around the town of Zalambessa to Eritrea for comment.

3. The demarcation team shall invite Eritrea to prepare a draft boundary for the town of Tserona. The demarcation team shall then submit that draft boundary to Ethiopia for comment.

Identification of pillar sites in Eastern Sector

4. The requirements for identifying pillar sites in this sector are:

(a) Helicopter access to pillar and associated marker site;

(b) Practicability of the site for emplacing the pillar and associated markers;

(c) Maintenance of an area balance between the line joining the final chosen sites compared to the original delimitation line of 13 April 2002 in the order of 3 per cent;

(d) Determination of the midpoint between the pre-conflict Eritrean and Ethiopian customs posts on the road near Bure;

(e) A reinstatement of the original pillar emplaced by the French on Mousa'ali in the course of the original demarcation of the Djibouti-Ethiopia border.

Enclosure 4

Eritrea/Ethiopia Boundary Commission

Demarcation instructions

22 August 2003

The Commission issues the following second set of technical instructions regarding demarcation:

Towns of Tserona and Zalambessa

1. The demarcation team shall take the fullest account of the proposed boundaries in the Parties' comments on Tserona and Zalambessa and the instructions in Paragraph 14 E of the Demarcation Directions, and shall prepare a report on these towns.

Identification of pillar sites

Salt Lake

2. The demarcation team shall identify the edge of the Salt Lake in the neighbourhood of Point 31 and fix the position of that point accordingly.

Ragali Delta

3. The demarcation team shall fix the position of Point 30 between the banks of the Ragali.

Ragali Gorge

4. The demarcation team shall fix the position of the pillar site as close as possible to Point 29 so as to ensure that both Parties have continuous access to the waters of the Ragali.

Points 26, 23 and 22

5. With respect to Points 26, 23, and 22, the boundary shall be located at the intersection of the main channel of each tributary with a line joining the upper and lower sections of the permanent bank of the main stream, and shall be marked by the demarcation team with an appropriate pillar site.

Points 24 and 25

6. The demarcation team shall fix Points 24 and 25 in accordance with Paragraph 14 D of the Demarcation Directions.

Boundary from Zalambessa to Point 21

7. The demarcation team shall investigate the area north of the Muna/Berbero Gado in order to determine whether there is a physical barrier affecting access from

the north to the northern side of the river that makes the boundary as set out in the Delimitation Decision manifestly impracticable.

Plateau Land East of Zalambessa

8. The demarcation team shall examine whether the delimitation as contemplated in the Commission's Delimitation Decision is manifestly impracticable so as instead to require running a series of straight lines, in a generally east and south-east direction, from the north-eastern point of the outer boundary of Zalambessa, as proposed by Ethiopia in its comments.

Plateau Lands Near Point 18

9. The demarcation team shall fix pillar sites at the outer and westernmost tips of the perimeter of the plateau, linked by a series of straight lines traversing the valleys in between.

10. The demarcation team shall, insofar as practicable, fix pillar sites so that the pillars will be intervisible.

Eritrean Claim Line

11. The demarcation team shall fix pillar sites between which a series of straight lines would be drawn so as to reflect the Eritrean claim line as depicted on the Soviet map (1:100,000), these pillar sites to be located within approximately 200 metres of the coordinates extracted from the Soviet map.

12. The demarcation team shall, insofar as practicable, fix pillar sites so that the pillars will be intervisible.

13. The demarcation team shall fix a pillar site on the bank opposite the intersection of the tributary on the Eritrean claim line with the Belesa B.

14. The boundary following the main channel of the Belesa A and the main channel of the tributary shall be located at the intersection of the main channel of the tributary with a line joining the upper and lower sections of the permanent bank of the Belesa A, and shall be marked by the demarcation team with an appropriate pillar site.

Point 17

15. The boundary following the main channel of the Belesa A and the main channel of the tributary shall be located at the intersection of the main channel of the tributary with a line joining the upper and lower sections of the permanent bank of the Belesa A, and shall be marked by the demarcation team with an appropriate pillar site.

Points 15 and 16

16. The demarcation team shall fix the position of Points 15 and 16 in accordance with Paragraph 14 D of the Demarcation Directions.

Point 14

17. The boundary following the main channel of the Belesa B and the main channel of the tributary shall be located at the intersection of the main channel of the tributary with a line joining the upper and lower sections of the permanent bank of the Belesa B, and shall be marked by the demarcation team with an appropriate pillar site.

Points 6 and 9

18. The demarcation team shall now fix the position of Points 6 and 9.

Criteria for pillar site selection

19. The requirements for identifying pillar sites in the Central and Western Sectors are:

(a) helicopter and/or vehicle access to all sites;

(b) suitability of the site for emplacing the pillar and associated markers.

River boundaries and islands

20. Having considered the submissions and comments of the Parties, the Commission determines that:

(a) the identification of a river, as a boundary, should normally suffice without actual demarcation therein save as regards the identification of such turning points as might otherwise give rise to doubts, and of headwaters or sources;

(b) the boundary is the middle of the main channel (the channel of greatest volume) and will move in accordance with any change in position of the middle of the main channel;

(c) the middle of the main channel, as defined in (b) above, shall not be demarcated;

(d) islands shall fall within the territory of either Party according to their location in relationship to the main channel.

21. The demarcation team shall determine by appropriate methods the position in relation to the main channel of those islands identified by the Parties in their comments.

Annex II

United Nations Mission in Ethiopia and Eritrea: contributions as of 9 February 2005

Country	*Military observers*	*Troops*	*Staff*	*Total*	*National support elements*
Algeria	8			8	
Australia			2	2	
Austria	2		1	3	
Bangladesh	7	167	4	178	
Benin					
Bosnia and Herzegovina	9			9	
Bulgaria	5		2	7	
China	7			7	
Croatia	7			7	
Czech Republic	2			2	
Denmark	4			4	
United Kingdom of Great Britain and Northern Ireland					
Finland	8		6	14	
France			1	1	
Gambia	4		2	6	
Ghana	12		4	16	
Germany	2			2	
Greece	3			3	
India	8	1 524	21	1 553	
Iran (Islamic Republic of)	3			3	
Italy		43	1	44	11
Jordan	7	951	11	969	
Kenya	10	327	9	346	
Malaysia	6		4	10	
Namibia	2		1	3	
Nepal	5			5	
Nigeria	6		3	9	
Norway	5			5	
Paraguay	0			0	
Peru	3			3	
Poland	6			6	
Romania	8			8	
Russian Federation	6			6	
Slovakia					
Spain	2		2	4	

Country	*Military observers*	*Troops*	*Staff*	*Total*	*National support elements*
South Africa	4		1	5	
Sweden	5			5	
Switzerland	4			4	
United Republic of Tanzania	8		3	11	
Tunisia	2		3	5	
Ukraine	7			7	
Uruguay	5	37	4	46	
United States of America	7			7	
Zambia	9		2	11	
Total	**208**	**3 049**	**87**	**3 344**	**11**